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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,072	10/27/2003	Martin Wolfgang Meyer	6841-02	4542

7590 09/26/2005

Richard R. Michaud
McCormick, Paulding & Huber LLP
CityPlace II
185 Asylum Street
Hartford, CT 06103

EXAMINER

RAHLL, JERRY T

ART UNIT	PAPER NUMBER
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2874

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/694,072

Applicant(s)

MEYER, MARTIN WOLFGANG

Examiner

Jerry T. Rahl

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 13 and 15-17 is/are rejected.
- 7) ☒ Claim(s) 10-12, 14, 18 and 19 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/27/03, 3/3/04, 9/29/04, 6/29/05</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statements (IDS) submitted 27 October 2003, 3 March 2004, 29 September 2004 and 29 June 2005 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the examiner.

Drawings

3. The drawings submitted have been reviewed and determined to facilitate understanding of the invention. The drawings are accepted as submitted.

Claim Objections

4. Claims 18 and 19 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from a previous multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3, 5-6 and 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,917, 632 to Lesesky.

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7. Lesesky describes an optical signal coupling (20) for coupled two vehicles with a first coupling part (21) fixed to one vehicle and a second coupling part (31) fixed to the other vehicle, between which optical signals are transmitted, where the first coupling part has a sending device (61) that creates the optical signals and the second coupling part has a receiving device (75) that detects the optical signals. (see Figs 1-3 and Columns 5-8). Lesesky does not specifically describe the optical coupling for use with two rail vehicles. However, the phrase, “especially rail vehicles coupled to one another,” in Claim 1 is not a limiting clause and carries no patentable weight.

8. Lesesky further describes the coupling parts having microprocessors for controlling and processing the optical signals. (see Column 7 Lines 10-15).

9. Lesesky further describes the sending device having an LED signal and the receiving device having a photodiode. (see Column 7 Lines 5-10).

10. Lesesky further describes the coupling parts arranged in the coupling heads of a mechanical coupling (see Figure 1).

11. Lesesky further describes the coupling parts each arranged in separate contact carriers that are connected to the two vehicles. The phrases, “for rail vehicles,” of Claim 16 and, “for two rail vehicles,” of Claim 17 both describe the uses for the device and are not given any patentable weight.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lesesky.
14. Lesesky describes the optical coupler with microprocessors, as discussed above. Lesesky does not specifically describe the microprocessor of the first coupling part programmed to multiplex individual signals or the microprocessor of the second coupling part programmed to divide a multiplexed signal. However, it is well-known in the art that multiplexing optical signals is an efficient way of sending data and that microprocessors are a common way of multiplexing and demultiplexing signals. Therefore it would have been obvious to one of ordinary skill in the art to multiplex the signals of Lesesky, using the described microprocessors, to efficiently transmit data between the coupling parts.

Double Patenting

15. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

16. Claims 1-3, 5-9, 13 and 15 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 and 10-11 of U.S. Patent No. 6,883,973 to Meyer. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims use substantially the same wording arranged differently to describe the device.

Allowable Subject Matter

17. Claims 10-12 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

18. Claims 10-12 and 14 describe the light opaque sleeves as being electrically conducting and that upon pressing together the ends of the light conducting elements of the coupling parts an electrical contact is established.

19. This subject matter, in combination with the other limitations described in the Claims, is not described or reasonably suggested by the prior art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry T. Rahll whose telephone number is (571) 272-2356. The examiner can normally be reached on M-Th (8:30-5:30).

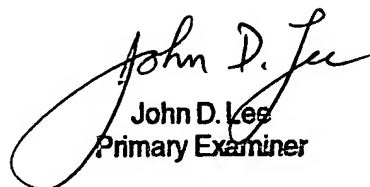
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick can be reached on (571) 272-2344. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jerry T. Rahll



John D. Lee
Primary Examiner